

July 14, 2004

The Honorable Robert Bunda, President
and Members of the Senate
Twenty-Second State Legislature
State Capitol, Room 003
Honolulu, Hawaii 96813

Dear Mr. President and Members of the Senate:

Re: House Bill No. 1987, H.D.1, S.D.1

On July 13, 2004, House Bill No. 1987, entitled "Relating to Motor Vehicles" became law without my signature, pursuant to Section 16 of Article III of the State Constitution.

House Bill No. 1987 amends section 291-21.5, Hawaii Revised Statutes, by increasing fines for owners and sun screening device installers who violate the motor vehicle sun screening device law. The bill also requires the installer to issue a certificate of compliance to the vehicle owner at the time of installation and the certificate must be stored in the vehicle. Furthermore, the certificate of the installer would be prima facie evidence of the identity of the installer and aid law enforcement in the prosecution of businesses installing illegal sun screening devices.

This bill also requires the installer to reinstall, free of charge, a sun screening device that complies with section 291-21.5 or reimburse the owner for the cost of reinstallation. When the installer is a commercial business, there appears to be a federal preemption problem with the bill. Installers that are commercial businesses are subject to the Federal Motor Vehicle Safety Standards, which prohibit a manufacturer, distributor, dealer, or vehicle repair business from applying a glazing material that is darker than the federal standard of seventy percent light transmittance level. Section 291-21.5(d)(7) and (8), Hawaii Revised Statutes, permits the installation of darker sun screening devices that have a light transmittance of only thirty-five percent.

Consequently, this bill, while making changes that will benefit law enforcement, will also compound a pre-existing preemption problem. Additionally, the law appears to prevent the prosecution of the operator of the motor vehicle and instead prosecutes the owner, which is frequently a bank or finance company.

My recommendation is that a bill should be introduced in the next legislative session to eliminate the inconsistency with the federal requirements and address the issue of who should be prosecuted for violations.

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Therefore, I allowed House Bill No. 1987, H.D.1, S.D.1 to become law as Act 227, effective July 13, 2004, without my signature.

Sincerely,

LINDA LINGLE